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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 UNITED STATES OF AMERICA,) 2:09-CR-132-JAD-(GWF)
9 Plaintiff,)
10 v.) Preliminary Order of Forfeiture
11 JAMES KINNEY,)
12 Defendant.)

13 This Court finds that defendant James Kinney pled guilty to Count Two of a Fifteen-
14 Count Second Superseding Indictment charging him in Count Two with Conspiracy to Sell
15 Unregistered Securities, to Make False Statements to SEC, to Evade Filing Periodic Reports, and
16 to Commit Securities Fraud & Insider Trading in violation of Title 15, United States Code,
17 Sections 77e(a)(1), 77e(a)(2), 77e(c), 77q(a), 78j, 78m(a), 78o(d), 78ff, and 78ff(a) and Title 18,
18 United States Code, Section 371. Second Superseding Indictment, ECF No. 63; Change of Plea,
19 ECF No. 638; Plea Agreement, ECF No. 639.

20 This Court finds defendant James Kinney agreed to the imposition of the in personam
21 criminal forfeiture money judgment of \$2,813,310 set forth in the Plea Agreement and the
22 Forfeiture Allegation of the Second Superseding Indictment. Second Superseding Indictment,
23 ECF No. 63; Change of Plea, ECF No. 638; Plea Agreement, ECF No. 639.

24 The in personam criminal forfeiture money judgment is any property, real or personal,
25 which constitutes or is derived from proceeds traceable to violations of Title 15, United States
26 Code, Sections 77e(a)(1), 77e(a)(2), 77e(c), 77q(a), 78j, 78m(a), 78o(d), 78ff, and 78ff(a),

1 securities fraud, specified unlawful activities as defined in Title 18, United States Code, Sections
2 1956(c)(7)(A) and 1961(1)(D), or Title 18, United States Code, Section 371, conspiracy to
3 commit such offenses, and is subject to forfeiture pursuant to Title 18, United States Code,
4 Section 981(a)(1)(C) with Title 28, United States Code, Section 2461(c) and Title 21, United
5 States Code, Section 853(p).

6 This Court finds that James Kinney shall pay an in personam criminal forfeiture money
7 judgment of \$2,813,310 to the United States of America, pursuant to Fed. R. Crim. P. 32.2(b)(1)
8 and (2); Title 18, United States Code, Section 981(a)(1)(C) with Title 28, United States Code,
9 Section 2461(c); and Title 21, United States Code, Section 853(p).

10 This Court finds that the United States of America may amend this order at any time to
11 add subsequently located property or substitute property to the forfeiture order pursuant to Fed.
12 R. Crim. P. 32.2(b)(2)(C) and 32.2(e).

13 The in personam criminal forfeiture money judgment complies with *Honeycutt v. United*
14 *States*, ___U.S.___, 137 S. Ct. 1626 (2017).

15 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the
16 United States recover from James Kinney an in personam criminal forfeiture money judgment of
17 \$2,813,310.

18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Clerk send copies
19 of this Order to all counsel of record and three certified copies to the United States Attorney's
20 Office, Attention Asset Forfeiture Unit.

21 DATED this 21st day of June, 2018.

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24 
25 UNITED STATES DISTRICT JUDGE
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PROOF OF SERVICE

A copy of the foregoing was served upon counsel of record via Electronic Filing on June 20, 2018.

/s/ Mary Stolz
MARY STOLZ
FSA Paralegal